IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 6289/1998

SHRI MAHENDRA SINGH KUMAWAT
Vs.
THE STATE OF RAJASTHAN & ORS.

Date: 16.11.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. Yogesh Gupta for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.

****

The short controversy in this writ petition is that the petitioner has not been promoted on the post of Sub Inspector and the similarly situated persons have been given promotion on the said post vide order dated 11.10.96 (Annexure-3). With regard to the petitioner, it was indicated in the order itself that the petitioner will only be promoted on the post of Sub Inspector in case the High Court vacate the interim order or the post is made available.

The averment of the petitioner in this writ petition is that one post was made available with the respondents on 01.08.97 due to promotion of one Shri Abdul Razaq, Sub Inspector, who was promoted as Inspector on 01.08.97 and against the said post, the petitioner should be considered as per the promotion

order dated 11.10.96 but was not considered and only promoted vide order dated 25.02.2002.

Now the only controversy remains that the petitioner is entitled to be considered w.e.f 01.08.97 as the similarly situated persons are given promotion on the post of Sub Inspector.

I have carefully perused the order dated 11.10.96 (Annexure-3), by which it was made clear that the petitioner was found suitable for promotion on the post of Sub Inspector but was not given promotion due to non-availability of the post and the promotion of the petitioner was deferred with reason that immediately after vacation of the interim stay order passed by the High Court or the vacancy is made available, the petitioner will be promoted.

As pointed by the learned counsel for the petitioner that the vacancy was made available on 01.08.97 as one Shri Abdul Razaq, Sub Inspector was promoted on the post of Inspector, therefore, the petitioner should have been given promotion w.e.f. 01.08.97.

On the other hand, learned counsel appearing for the respondent State submits that the petitioner was not given promotion as enquiry was pending against him and was only found suitable for the post of Sub

Inspector in the year 2002 and was accordingly promoted on the post of Sub Inspector vide order dated 25.02.2002.

Having considered the rival submissions of the respective parties, I am not impressed with the submissions made on behalf of the State as vide order dated 11.10.96 (Annexure-3), the petitioner was found suitable for promotion on the post of Sub Inspector and the post was made available with the respondents on 01.08.97 on account of promotion of one Shri Abdul Razaq to the post of Inspector, therefore, the petitioner should be considered for promotion w.e.f. 01.08.97.

Consequently, the writ petition stands allowed. The respondents are directed to consider the case of the petitioner w.e.f. 01.08.97, the date upon which the post was made available with the respondents and shall pass appropriate order in this regard.

(K.S. RATHORE),J.

/KKC/